

# USAID

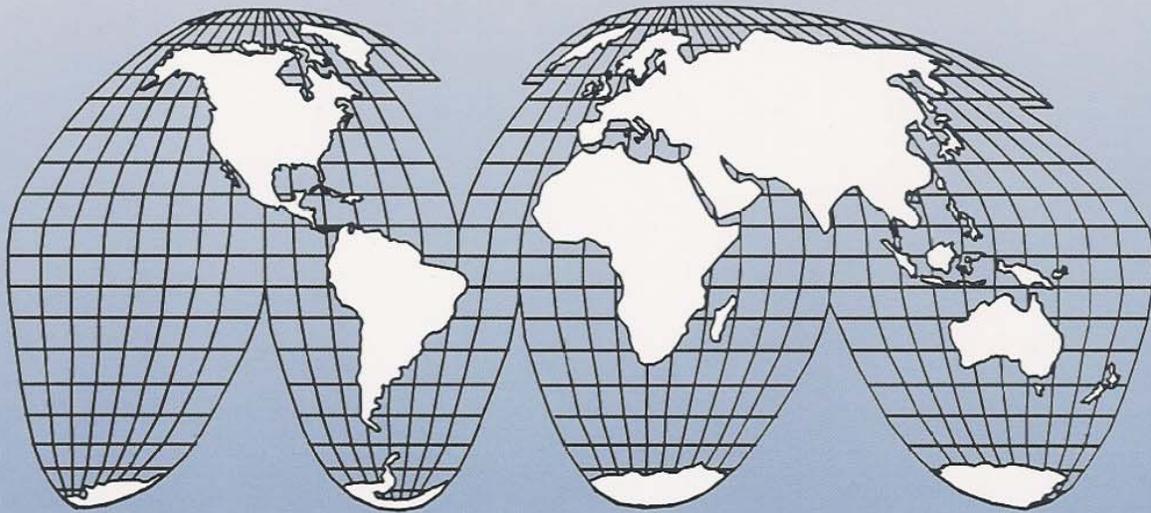
## OFFICE OF INSPECTOR GENERAL

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### **Audit of USAID/Indonesia's Management of U.S. Personal Services Contractors**

**Report No. 5-497-04-003-P**

**April 6, 2004**



**Manila, Philippines**



April 6, 2004

**MEMORANDUM**

**FOR:** William M. Frej, Director USAID/Indonesia

**FROM:** Bruce N. Boyer, RIG/Manila /s/

**SUBJECT:** Audit of USAID/Indonesia's Management of U.S. Personal Services Contractors (Audit Report No. 5-497-04-003-P)

This memorandum transmits our final report on the subject audit. Your comments to the draft report are included as Appendix II to this report.

We found that the Mission both determined its requirements for U.S. personal services contractors and awarded its U.S. personal services contracts in accordance with selected USAID policies and procedures. Since there are no audit recommendations and you agreed with the audit findings, no further action is required.

I want to express my sincere appreciation for the cooperation and courtesies extended to my staff during the audit.

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**Summary of Results**

The Regional Inspector General/Manila conducted this audit to determine whether USAID/Indonesia established its staffing requirements for U.S. personal services contractors (USPSCs) and awarded its U.S. personal services contracts in accordance with selected USAID policies and procedures. The audit concluded that the Mission had determined its USPSC staffing requirements and awarded its U.S. personal services contracts in accordance with selected USAID policies and procedures (see pages 6 and 8).

USAID/Indonesia agreed with the reported findings (see Appendix II).

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**Background**

USAID's core workforce consists of four distinct groups: (1) U.S. foreign service; (2) U.S. civil service; (3) U.S. personal services contractors (USPSCs); and (4) foreign service nationals and third country nationals—which can be either direct hires or personal services contractors.

Of these groups, USPSCs have increasingly become an important element of USAID's workforce. Because of downsizing and a reduction-in-force in 1996, the number of U.S. direct hires declined from 3,262 at September 30, 1990, to 2,156 at December 31, 2002—a 34 percent reduction. As a result, USAID has relied more and more on USPSCs to help implement its activities. At September 30, 2003, USAID's 597 USPSCs made up 7.5 percent of its workforce.

The need for USPSCs at overseas missions is affected by a number of factors including budgetary restrictions on the number of U.S. direct hires; the size, diversity, or nature of a mission's activities; the availability of educated and experienced local applicants; and even restrictions imposed by a U.S. Embassy because of security or other concerns. These various factors contribute to a mission's unique "personnel profile".

At October 31, 2003, USAID/Indonesia's personnel profile included 19 USPSCs<sup>1</sup> that made up 10.7 percent of its overall workforce and 47.5 percent of its U.S. employee workforce. This personnel profile, including the number of USPSCs, recently changed when the Mission overhauled its 5-year strategic plan—significantly altering the nature of its activities.

Personal services contracts are employment contracts and USPSCs, for most purposes, are considered employees of the U.S. government. Consequently, when determining its needs for USPSCs and in employing them, USAID/Indonesia must comply with certain USAID policies and procedures.

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<sup>1</sup>These 19 include 4 who work at USAID/East Timor. USAID/Indonesia currently has contracting and hiring authority for USAID/East Timor USPSCs.

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**Audit Objectives**

As part of its fiscal year 2004 audit plan, and in connection with the Office of Inspector General worldwide audit on the topic, the Regional Inspector General/Manila performed this audit to answer the following questions:

- Did USAID/Indonesia determine its requirements for U.S. personal services contractors in accordance with USAID policies and procedures?
- Did USAID/Indonesia award U.S. personal services contracts in accordance with selected USAID policies and procedures?

Appendix I contains a discussion of the audit's scope and methodology.

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**Audit Findings****Did USAID/Indonesia determine its requirements for U.S. personal services contractors in accordance with USAID policies and procedures?**

USAID/Indonesia determined its requirements for U.S. personal services contractors (USPSC) in accordance with USAID policies and procedures.

Those policies and procedures are contained in USAID's Automated Directives System (ADS) in the form of a USAID General Notice addressing the "Appropriate Use and Funding of USAID's Non-Direct Hire Workforce".<sup>2</sup> This notice provides USAID managers with information and guidance on the appropriate roles, responsibilities, and employment mechanisms for the various types of personnel working with USAID. For example, the notice states that:

- U.S. direct hires (USDHs) shall perform the basic work of USAID.<sup>3</sup>
- The first option for filling a position that must be filled by a U.S. citizen is the assignment of a USDH.
- A USPSC should only be considered when the staffing requirement is clearly temporary, when the local recruitment of U.S. citizens is uniquely suitable or when all alternatives for utilizing USDHs have been exhausted.

To answer the audit objective, we examined how the Mission identified its particular staffing requirements, and we assessed the circumstances that were involved in hiring a sample of seven USPSCs.<sup>4</sup>

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<sup>2</sup>ADS 400 Series Updates, 1995 #2.

<sup>3</sup>USDHs can be U.S. foreign service or U.S. civil service employees.

<sup>4</sup>The seven USPSCs were chosen because they were hired or were in the process of being hired during the period from May to November 2003, a timeframe during which the Mission was revising its 5-year strategic plan—a revision that significantly impacted its staffing requirements.

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USAID/Indonesia, as required, used USDHs to perform the basic work of USAID. Like other USAID overseas missions, USAID/Indonesia is allocated a set number of USDHs based on a variety of factors, including the complexity of the program, the level of funding, whether the Mission provides regional services, etc. Mission management used these USDHs to staff the basic functions of the Mission: the Director and Deputy Director, the Legal Officer, the Program Officer, the Controller and Deputy Controller, the Executive Officer, the Contracting Officers, and 12 other key project development officials. However, the limited availability of USDHs impacted how the Mission filled its other workforce requirements.

As the Mission made significant changes to its 5-year strategic plan, it identified positions requiring skill sets that it could not fill with the set number of USDHs allocated to it. Generally, these positions were those that had to be filled by American candidates with broad, long-term, international experience who would be viewed as having greater credibility by host country counterparts. For example:

- Under the redefined Economic Growth strategic objective, which formerly consisted of three strategic objectives under the previous 5-year strategy, the Mission hired three USPSCs at the GS-15 level. All three positions that the USPSCs filled—Senior Public Finance Advisor, Senior Economics Governance Advisor, and Senior Trade and Investment Advisor—required the unique skill sets and experience discussed above.
- Under Democratic Governance, another redefined strategic objective, the Mission hired a USPSC, at the GS-13 level, to fill the dual title of Program Manager/Conflict Advisor because of his unique combination of experience and portfolio knowledge.

As an example of the suitability of a locally recruited U.S. citizen, the Mission hired a USPSC for the Executive Office. This position was advertised for all workforce categories, i.e., USPSCs, foreign service nationals (FSNs), and third country nationals (TCNs). Although there were FSN and TCN applicants that had the technical qualifications, the Mission determined that the USPSC, living in Indonesia, not only had the technical competence, but also had the needed communications skills.

In addition to appropriately determining its requirements for USPSCs, the Mission had to comply with USAID Acquisition Regulation (AIDAR) Appendix D, Section 4.b.3, which requires missions to ensure that USPSCs:

- Do not supervise USDH or other U.S. government employees.
- Are not designated as Contracting Officers or delegated authority to sign obligating or sub-obligating documents.

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- Do not communicate a final USAID policy, planning, or budget decision unless it has been cleared by a USDH.
  - Do not make a final decision on personnel selection.

The Mission ensured compliance with these requirements. For example, USAID/Indonesia contracting officials included, as standard practice, these prohibitions in all U.S. personal services contracts. USPSCs acknowledged and accepted the prohibitions by virtue of signing their contracts. As a result, USAID/Indonesia management officials and the USPSCs themselves were aware of and had knowledge of these requirements. Our review of a sample of seven USPSCs did not find any instances where the Mission had placed the USPSCs in positions or gave them authorities contrary to the AIDAR requirements.

In summary, USAID/Indonesia complied with USAID policies and procedures requiring that, in filling its positions: (1) basic work was performed by USDHs; (2) USDHs were given primary consideration over USPSCs; (3) all alternatives for utilizing direct hires were exhausted before hiring USPSCs; and (4) consideration was given to locally hired USPSCs when uniquely suitable.

### **Did USAID/Indonesia award U.S. personal services contracts in accordance with selected USAID policies and procedures?**

USAID/Indonesia awarded its U.S. personal services contracts in accordance with selected USAID policies and procedures for using full and open competition, establishing starting salaries, setting fringe benefits, and awarding salary increases.

#### **Using Full and Open Competition**

USAID/Indonesia followed USAID policies and procedures for full and open competition in selecting USPSCs.

According to the Federal Acquisition Regulation (FAR), Subpart 6.1 - Full and Open Competition, contracting officers shall promote and provide for full and open competition in soliciting offers and awarding Government contracts. However, USAID's Contract Information Bulletin (CIB) 97-16 states that full and open competition need not be obtained when it would impair or otherwise have an adverse effect on programs conducted for the purposes of foreign aid. A justification for other than full and open competition can be authorized as long as two conditions are met: (1) offers are requested from as many potential sources as is practicable under the circumstances, and (2) justification supporting less than full and open competition is prepared.

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The contract files for a sample of 15 USPSCs showed that 10 were selected under full and open competition, and the remaining 5 were not subject to or had appropriate justifications for other than full and open competition. For the 10 USPSCs, the contract files contained the following evidence of full and open competition:

- Job advertisements placed on the USAID internet site and in other media such as the local newspaper and/or the *Economist* magazine.
- Documentation of the number of applications received and reviewed.
- Determinations of the number of qualified candidates according to a preliminary selection.
- Evaluations of candidates by a Technical Evaluation Committee.
- Documentation of the number of candidates in the competitive range.
- Justifications for selecting candidates and documentation of the offers made to the selected candidates.

Three of the remaining five USPSCs were “resident hires” for which the Mission met the requirements of CIB 97-16 for other than full and open competition by:<sup>5</sup>

- Soliciting for as many applicants as was practicable.
- Providing written justification for less than full and open competition.

A fourth USPSC was not subject to the full and open competition requirements because, as opposed to a new USPSC procurement, the USPSC was merely converted from a USAID/Washington contract to a USAID/Indonesia contract. As for the fifth remaining USPSC, full and open competition was not applicable because the USPSC was hired from the “PSC Availability List” during the period when the list had to be considered.<sup>6</sup>

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<sup>5</sup>A resident hire is a U.S. citizen who, at the time of hire as a USPSC, resided in the host country as a spouse or dependent of a U.S. citizen employed by a U.S. government agency.

<sup>6</sup>The PSC Availability List was established by USAID to give priority consideration to interested ex-USAID foreign service employees who were subjected to the Agency’s 1996 Reduction-in-Force. The period for priority consideration was from December 22, 2000, through October 3, 2003. The rules for using the list are in USAID Contract Information Bulletin No. 00-08.

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## Establishing Starting Salaries

USAID/Indonesia followed USAID policies and procedures when establishing starting salaries for newly-hired USPSCs.

AIDAR Appendix D, provides two distinct methods for establishing USPSC salaries: method 1 and method 2. Under method 1, a market value (or salary range equal to a given GS grade salary range) is established based upon the scope of work for the position to be solicited. This method avoids using a candidate's salary history, which may be in excess of the market value for the position, as a basis for salary negotiations. It also requires concurrence by USAID's Office of Human Resources, Personnel Operations Division (M/HR/POD) for market values set at greater than the GS-13 salary range. Method 2, on the other hand, permits using a candidate's salary history as a basis for salary negotiations. Missions are required to use method 1 unless a written justification is provided by the Mission Director or the cognizant Assistant Administrator for using method 2.

Of 15 USPSCs reviewed, the Mission established starting salaries for 13 using method 1 and established starting salaries for two using method 2. The contract files for all 15 USPSCs contained, as applicable, the following evidence that the starting salaries were established in accordance with USAID policies and procedures:

- A scope of work, developed by the contracting officer in coordination with the technical officer, which included the job description, and duties and responsibilities.
- The successful candidate's application that included the certified salary history.
- A memorandum of negotiation and related communications that included the market value (or salary range established for the position), the salary offered, and the salary accepted.
- The concurrence of M/HR/POD when required.
- A written justification from the appropriate official when using method 2.



Photograph of USAID/Indonesia's Contracting Office staff. The staff is responsible for awarding USPSC contracts in accordance with USAID policies and procedures. Jakarta, Indonesia, December 18, 2003.

### **Setting Fringe Benefits**

USAID/Indonesia followed USAID policies and procedures in setting fringe benefits for its USPSCs.

According to AIDAR Appendix D, USPSCs are not eligible to participate in any programs based on laws administered by the Federal Office of Personnel Management (such as incentive awards, retirement, and insurance programs). Other than the above exceptions, fringe benefits granted "international hire" USPSCs are essentially the same as those granted to USDHs.<sup>7</sup> For example, they are entitled to:

- Home leave
- Rest and recuperation travel
- Post differential
- Living quarters allowance

<sup>7</sup>An international hire, as opposed to a resident hire (footnote 5), is a U.S. citizen who, at the time of recruitment and hire as a USPSC, was a resident of a country other than the host country.

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- Temporary lodging allowance
  - Post allowance
  - Payments during evacuation
  - Education allowance
  - Education travel
  - Separate maintenance allowance
  - Travel and transportation

On the other hand, in most instances, resident hires are not eligible for the fringe benefits listed above.

Of the 15 contract files we reviewed, 3 were resident hires while 12 were internationally recruited. Based on interviews with contracting office personnel and review of contract files and payroll records, all 15 USPSCs received only those fringe benefits allowed to them in accordance with stated USAID policies and procedures. Further, the fringe benefits granted were the same as those listed in each position's original solicitation and contract.

### **Awarding Salary Increases**

USAID/Indonesia followed USAID policies and procedures when awarding salary increases to its USPSCs.

According to CIB No. 98-16, USPSCs are allowed to receive a three percent salary increase each year for satisfactory performance in addition to pay comparability adjustments, if funds are available.<sup>8</sup> USPSCs can continue to receive the three percent annual salary increase for satisfactory performance unless that increase would raise an individual's salary beyond the maximum limit of the position's GS salary range. However, this does not affect the pay comparability adjustments.

Of 15 USPSCs reviewed, 6 were hired during the period May to November 2003. Consequently, these six USPSCs were not entitled to any salary increases and none were given to them. For the remaining nine USPSCs, the Mission correctly

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<sup>8</sup>As part of the annual locality pay adjustment process, a comparison of pay rates under the General Schedule for non-Federal workers for the same levels of work within each locality pay is performed, and based on surveys conducted by the Bureau of Labor Statistics for each locality in which a pay disparity exists, the size of each pay disparity is identified and appropriate comparability payments are recommended.

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authorized annual performance and pay comparability increases in accordance with stated USAID policies and procedures.

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**Management  
Comments and  
Our Evaluation**

USAID/Indonesia agreed with the reported findings. The Mission's comments are included at Appendix II.

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**Scope and  
Methodology****Scope**

The Regional Inspector General/Manila conducted this audit in accordance with generally accepted government auditing standards. The fieldwork was conducted at USAID/Indonesia in Jakarta, Indonesia from November 4-24, 2003, and from December 15-19, 2003.

We obtained an understanding of and assessed the following USAID/Indonesia management control systems: identifying staffing requirements and determining which positions to fill with U.S. personal services contractors (USPSCs); awarding U.S. personal services contracts using full and open competition; setting starting salaries and fringe benefits; and awarding salary increases. Further, we considered previous audit findings that related to USPSCs, and we reviewed the Mission's most recent self-assessment under the Federal Managers' Financial Integrity Act of 1992. The audit was not designed to assess the overall economy and efficiency of USAID/Indonesia's personal services contracting process.

The audit scope included 24 USPSCs. The universe consisted of 23 U.S. personal services contracts that were active during the period from October 1, 2002, to November 4, 2003, and one USPSC procurement in process at November 4, 2003. The total annual value of all 24 contracts was \$5,663,000. The universe included four USPSCs employed at USAID/East Timor, a new USAID mission for which USAID/Indonesia currently provides certain services, including the contracting of USPSCs.

**Methodology**

For the first audit objective, we examined pertinent documentation and held discussions with responsible USAID/Indonesia officials to determine: (1) how the Mission identified its particular staffing needs; (2) whether the Mission was justified when it determined that a position needed to be filled by a USPSC, (3) if a resident hire USPSC was considered first before hiring an international hire USPSC, and (4) whether USPSCs were hired to perform explicitly prohibited functions and actions. To assist in answering the objective, we tested a judgmental sample of 7 (29 percent) of the 24 USPSCs covered by this audit. These seven USPSCs were hired, or in process to be hired, during the time when the Mission was significantly overhauling its five-year strategic plan. The total annual value of the 7 contracts was \$1,727,000 or 31 percent of the total annual value of all 24 USPSC contracts.

For the second audit objective, we reviewed USPSC files at USAID/Indonesia's contracting office, and held discussions with responsible contracting officials to determine, with regard to USPSCs, whether USAID/Indonesia followed selected USAID policies and procedures in: (1) using full and open competition; (2)

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establishing starting salaries; (3) setting fringe benefits; and (4) awarding salary increases. To assist in answering the objective, we tested a judgmental sample of 15 (63 percent) of the 24 USPSCs covered by this audit. The sample was selected in order to test as many of the USAID policies and procedures as possible. The total annual value of the 15 contracts was \$3,491,000 or 62 percent of the total annual value of all 24 USPSC contracts.

In forming a separate opinion on each of the audit objectives, if the results of our audit procedures indicated that the criteria had been met in all applicable cases in our sample, we would issue an unqualified opinion. If any one of the applicable USPSCs did not meet the criteria, we would issue a qualified opinion. If more than one of the USPSCs did not meet the criteria, we would issue a negative opinion.

**Management  
Comments**



**UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT  
USAID/INDONESIA**

**March 24, 2004**

MEMORANDUM

TO: Bruce N. Boyer, RIG/Manila

FROM: William M. Frej, Director USAID/Indonesia / S /

SUBJECT: Audit of USAID/Indonesia's Management of U.S.  
Personal Services Contractors.  
(Audit Report No. 5-497-04-00X-P)

This is USAID/Indonesia's official response to the draft audit report. We thank you for the opportunity to comment on the subject audit report and appreciate the auditors' attention to consider our suggestions and comments during the exit meeting.

In sum, we agree with the draft report's contention that the Mission both determined its requirement for U.S. personal services contractors and awarded its U.S. personal services contracts in accordance with selected USAID policies and procedures.